

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JAMES MCDONALD,

Plaintiff,

v.

ONEWEST BANK, FSB, *et al.*,

Defendants.

No. C10-1952RSL

ORDER DENYING PLAINTIFF'S  
MOTION FOR SANCTIONS

This matter comes before the Court on "Plaintiff's Motion for Sanctions Pursuant to CR 37(b)(2)(A) and 28 U.S.C. § 1927." Dkt. # 278. Having reviewed the motion and the remainder of the record, the motion is hereby DENIED. The parties are bound by the Court's summary judgment rulings, but if plaintiff failed to request or did not obtain summary judgment on a particular defense or issue, the matter will be decided by the jury. Defendants may pursue whatever defenses and arguments are available to them, including an argument that plaintiff did not suffer damages with respect to certain statutory violations, as long as the argument is not inconsistent with the findings of the Court.

Defendants have the burden of establishing that the document currently in their possession is, in fact, the original promissory note signed by plaintiff in 2007. The Court was unable to decide this issue as a matter of law because (a) defendants were unable to produce a witness with personal knowledge of the relevant events and records and (b) their willingness to

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1 substitute supposition for facts greatly damaged the credibility of their assertions. The Court has  
2 already sanctioned defendants for their improper litigation conduct: that issue has been resolved.  
3 Plaintiff's request that the Court add to the sanction by assuming that defendants will not be able  
4 to prove the authenticity of the document in their possession (or by precluding the admission of  
5 evidence regarding that fact) is unwarranted and unjustified.

6 Finally, the Court did not "unequivocally order[] Heidi Buck-Morrison to remain  
7 as lead counsel." Motion at 15. Defendants are free to retain multiple attorneys (as MERS and  
8 OneWest have done), and those attorneys may choose to divide the tasks associated with the  
9 representation amongst themselves. The Court will not compel defendants to speak solely  
10 through Ms. Buck-Morrison simply because that would be most convenient for plaintiff.

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12 For all of the foregoing reasons, plaintiff's motion for sanctions is DENIED as  
13 untimely or unsupported.

14 Dated this 23rd day of August, 2013.

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17 Robert S. Lasnik  
18 United States District Judge  
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